

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION**

RUBEN ALEXANDER GONZALEZ,

Petitioner,

v.

WARDEN KARL FORT,

Respondent.

CIVIL ACTION NO.: 4:20-cv-253

**ORDER**

Presently before the Court are Petitioner Ruben Gonzalez's ("Gonzalez") Objections to the January 18, 2022 Report and Recommendation. (Doc. 6.) The Magistrate Judge recommended the Court dismiss without prejudice Gonzalez's 28 U.S.C. § 2254 Petition for Writ of Habeas Corpus due to Gonzalez's failure to exhaust his state remedies prior to filing the instant Petition in this Court. (Doc. 6.)

In his Objections, Gonzalez asks this Court to waive the exhaustion requirements and to hold his Petition in abeyance pending the outcome of his state habeas petition. (Doc. 7, p. 9.) The United States Supreme Court has found that granting a stay and abeyance is only appropriate "when a court determines there was good cause for the petitioner's failure to exhaust his claims first in state court." Jackson v. White, CV120-160, 2021 WL 359261, at \* 2 (S.D. Ga. Jan. 5, 2021) (citing Rhines v. Weber, 544 U.S. 269, 277 (2005)). Gonzalez has not met this good cause standard. In fact, Gonzalez's Objections merely underscore the Magistrate Judge's determination Gonzalez did not exhaust his state remedies prior to filing his Section 2254 Petition. Gonzalez freely admits his state habeas proceedings are ongoing, and he appears to have filed his Section 2254 Petition two days before he submitted his state habeas application. (Doc. 1; Doc. 7, p. 4.)

Further, Gonzalez moved to amend his state petition on August 11, 2021, almost ten months after he filed his Section 2254 Petition. (Doc. 7, p. 41.) It is clear Gonzalez did not exhaust his available state remedies at the time he filed this Section 2254 Petition.

After an independent and de novo review of the entire record, the Court **OVERRULES** Gonzalez's Objections, **CONCURS** with the Magistrate Judge's Report and Recommendation, and **ADOPTS** the Report and Recommendation as the opinion of the Court. The Court **DISMISSES without prejudice** Gonzalez's Section 2254 Petition based on his failure to exhaust, **DIRECTS** the Clerk of Court to **CLOSE** this case and enter the appropriate judgment of dismissal, and **DENIES** Gonzalez *in forma pauperis* status on appeal and a Certificate of Appealability.

**SO ORDERED**, this 11th day of February, 2022.

A handwritten signature in blue ink, appearing to read "R. Stan Baker", is written above a horizontal line.

R. STAN BAKER  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF GEORGIA